

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
JUAN AGUILAR-CORTEZ,  
  
Defendant.

No. 2:95-cr-20 WBS

ORDER

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After this court denied defendant Juan Aguilar-Cortez's motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i) and motion to reconsider, defendant appealed and the Ninth Circuit remanded the case for further consideration under the standard set forth in United States v. Aruda, 993 F.3d 797 (9th Cir. 2021).

Pursuant to Aruda, 993 F.3d at 802, the court recognizes that U.S.S.G. § 1B1.13 is not binding on this court, though it "may inform a district court's discretion for § 3582(C)(1)(A) motions filed by a defendant." See id.

1 Accordingly, the court considers the Sentencing Commission's  
2 policy statements, including U.S.S.G. § 1B1.13, in deciding the  
3 instant motion.

4 The court once again notes defendant's age<sup>1</sup> and various  
5 medical conditions including diabetes, hypertension, and his  
6 prior positive test for COVID-19, as well as the prevalence of  
7 COVID-19 at FCI Victorville, where he is housed. However, the  
8 court finds that the Bureau of Prisons has been able to  
9 sufficiently treat his medical conditions, including his  
10 diagnosis of COVID-19. Further, any risk defendant faces due to  
11 his age, medical conditions, and placement at FCI Victorville is  
12 greatly diminished by the availability of COVID-19 vaccines,  
13 which at this point have almost certainly been offered to  
14 defendant. Ultimately, the court determines that defendant has  
15 not shown that his age and medical conditions, along with the  
16 COVID-19 pandemic, qualify as extraordinary and compelling  
17 reasons for release under 18 U.S.C. § 3582(c)(1)(A).

18 The court also once again determines that California's  
19 reclassification of one of defendant's prior felonies from a  
20 felony to misdemeanor does not constitute an extraordinary and  
21 compelling reason for release under 18 U.S.C. § 3582(c)(1)(A).  
22 As this court previously explained, "[w]hen a state grants post-  
23 conviction relief to a defendant with respect to his state felony  
24 conviction, [federal courts] do not generally apply those changes  
25 retroactively for purposes of determining whether a federal

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26  
27 <sup>1</sup> Defendant identified himself as 63 years old in his  
28 original motion filed on November 13, 2020. (Docket No. 326 at 1.)

1 sentencing statute's requirements are met." (Docket Nos. 336,  
2 338 (quoting United States v. Diaz, 838 F.3d 968, 972 (9th Cir.  
3 2016).) Under all the relevant factors, the court rejects  
4 defendant's contention that the reclassification of his prior  
5 state conviction warrants compassionate release, either alone or  
6 in combination with defendant's age, medical condition, and the  
7 COVID-19 pandemic.

8 IT IS THEREFORE ORDERED that defendant Juan Aguilar-  
9 Cortez's motion for compassionate release and motion to  
10 reconsider (Docket Nos. 326, 337), be, and the same hereby are,  
11 DENIED.

12 Dated: January 12, 2022



13 WILLIAM B. SHUBB

14 UNITED STATES DISTRICT JUDGE  
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